



General Assembly

Substitute Bill No. 6918

January Session, 2005

* ____HB06918FIN__041305__ *

**AN ACT CONCERNING THE INTEGRITY OF THE UNEMPLOYMENT
COMPENSATION EXPERIENCE RATED TAX SYSTEM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) For purposes of this
2 section:

3 (1) "Knowingly" means having actual knowledge of or acting with
4 deliberate ignorance of or reckless disregard for a prohibition or
5 requirement under this section;

6 (2) "Person" means an individual, corporation, limited liability
7 company, company, trust, estate, partnership or association;

8 (3) "Trade or business" includes an employer's employees; and

9 (4) "Violates or attempts to violate" includes, but is not limited to,
10 the evasion of or attempt to evade any provision of this section, or any
11 misrepresentation or wilful nondisclosure of information required to
12 be given under this section.

13 (b) No person who acquires the assets, organization, trade or
14 business of an employer solely or primarily for the purpose of
15 obtaining a lower contribution rate to the Unemployment
16 Compensation Fund shall acquire the unemployment experience of
17 such employer, and such acquisition shall be deemed a violation under

18 this subsection. If the administrator determines that a person has
19 acquired such assets solely or primarily for the purpose of obtaining a
20 lower contribution rate, the administrator shall require such person to
21 pay contributions at the rate provided in subsection (d) of section 31-
22 225a of the general statutes for an employer who has not been
23 chargeable with benefits for a sufficient period of time to have such
24 employer's rate otherwise computed under section 31-225a of the
25 general statutes or, where applicable, the person's charged tax rate, as
26 provided in subsection (e) of section 31-225a of the general statutes,
27 whichever is greater. In determining whether the assets, organization,
28 trade or business of an employer was acquired solely or primarily for
29 the purpose of obtaining a lower contribution rate, the factors the
30 administrator shall consider shall include, but not be limited to, the
31 cost of acquiring the business, whether the person continued the
32 business activity of the acquired business, how long the business was
33 continued and whether a substantial number of new employees were
34 hired for performance of duties unrelated to the business activity
35 conducted by the business prior to its acquisition.

36 (c) Notwithstanding any other provision of chapter 567 of the
37 general statutes relating to the transfer of unemployment experience, if
38 an employer transfers its assets, organization, trade or business, or a
39 portion of its assets, organization, trade or business, to another
40 employer with whom, at the time of such transfer, the transferring
41 employer shares substantially common ownership, management or
42 control, the unemployment experience of the transferring employer
43 shall be transferred to the receiving employer. The administrator shall
44 recalculate the contribution rates of both employers and make such
45 recalculated rates effective upon the date of the transfer. The
46 administrator may require from any employer, whether or not
47 otherwise subject to this chapter, any sworn or unsworn reports that
48 are necessary for the effective administration of this section.

49 (d) In addition to the penalty imposed pursuant to subsection (e) of
50 this section and any applicable penalties under chapter 567 of the
51 general statutes, if a person knowingly violates or attempts to violate

52 any provision of subsection (b) or (c) of this section, or any other
 53 provision of chapter 567 of the general statutes relating to determining
 54 the assignment of a contribution rate, or knowingly advises another
 55 person in the violation of subsection (b) or (c) of this section, such
 56 person shall be subject to the following penalties:

57 (1) If the person is an employer, such person shall be assigned a
 58 penalty rate of contributions of two per cent of taxable wages for the
 59 year during which such violation or attempted violation occurred and
 60 for the following three years.

61 (2) If the person is not an employer, such person shall be subject to a
 62 civil penalty of not less than five hundred dollars nor more than five
 63 thousand dollars. Any such fine shall be deposited into the
 64 Employment Security Special Administration Fund established under
 65 subsection (d) of section 31-259 of the general statutes.

66 (e) Any person who violates this section shall be fined not more
 67 than two thousand dollars or imprisoned not more than one year, or
 68 both.

69 (f) The administrator shall adopt regulations, in accordance with the
 70 provisions of chapter 54 of the general statutes, to establish procedures
 71 and guidelines necessary to implement the provisions of this section,
 72 including procedures to identify the transfer or acquisition of a
 73 business for purposes of this section.

74 (g) This section shall be interpreted and applied in such a manner as
 75 to meet the minimum requirements of Public Law 108-295 as
 76 interpreted by the federal Department of Labor.

77 (h) This section shall apply to unemployment compensation tax
 78 years beginning on and after January 1, 2006.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	New section

Section 1	October 1, 2005	New section
-----------	-----------------	-------------

Statement of Legislative Commissioners:

In subsection (b), "otherwise" was inserted after "employer's rate" and "under section 31-225a" was substituted for "under such provision" for accuracy and clarity.

LAB *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable Subst.-LCO*